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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/922,699	08/07/2001	Chika Kayaba	1619.1012	8779

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EXAMINER

HIRL, JOSEPH P

ART UNIT	PAPER NUMBER
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2121

DATE MAILED: 03/08/2004

5

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/922,699

**Applicant(s)**

KAYABA ET AL.

**Examiner**

Joseph P. Hirl

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 29 December 2003.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

### DETAILED ACTION

1. This Office Action is in response to an AMENDMENT entered December 29, 2003 for the patent application 09/922,699 filed on August 7, 2001.
2. The First Office Action of September 26, 2003 is fully incorporated into this Final Office Action by reference.
3. The claims and only the claims form the metes and bounds of the invention. "Office personnel are to give the claims their broadest reasonable interpretation in light of the supporting disclosure. *In re Morris*, 127 F.3d 1048, 1054-55, 44USPQ2d 1023, 1027-28 (Fed. Cir. 1997). Limitations appearing in the specification but not recited in the claim are not read into the claim. *In re Prater*, 415 F.2d, 1393, 1404-05, 162 USPQ 541, 550-551 (CCPA 1969)" (MPEP p 2100-8, c 2, I 45-48; p 2100-9, c 1, I 1-4). The Examiner has full latitude to interpret each claim in the broadest reasonable sense. Examiner will reference prior art using terminology familiar to one of ordinary skill in the art. Such an approach is broad in concept and can be either explicit or implicit in meaning.

4. Examiner's Opinion:

Para 3 above applies. Considering the nature of the invention, the use of the term psychological is an unreasonable expansion in both the specification and the claims related to the measured descriptors. The subject matter related to psychology is indeed very complex and in no way can be summarized as a function of "elapsed time" , "number of times the customer's call has been transferred", "the time for which the customer has remained silent during the communication with the operator", etc. Such a

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simplistic model will in no way represent the **psychological state** of the individual on the phone. In fact, the applicant agrees with Examiner on the point of such a concern as noted in the specification at page 1, lines 29-32: "... and it is impossible to understand the customer's presumed psychological state such as his or her unpleasant or other feelings which result from the communication over the phone".

#### ***Status of Claims***

5. Claim 1 and 9 are amended. Claim 10 is new. Claims 1-10 are pending.

#### ***Claim Rejections - 35 USC § 112***

6. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

7. Claim 10 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

The concept of a "psyche parameter" is not enabled in the disclosure.

***Response to Arguments***

8. Applicant's arguments filed on December 29, 2003 related to Claims 1-10 have been fully considered but are not persuasive.

In reference to Applicant's argument:

Independent claim 1 and 9 are amended for clarity. In contrast to Perfit, the claimed invention, as recited in amended claim 1, provides "analyzing a CTI server state condition of the call from the telephone terminal to generate a parameter based on the state condition in the CTI sever for the call the parameter representing a presumed psychological state of a customer using the telephone terminal." The present invention's CTI server state condition for the call is not the same as Perfit's data intentionally input from the input device, because a customer input data does not reveal any information about a status of an incoming call in the CTI, such as how many calls by the customer, incoming time, how the CTI has dealt Serial No. 091922,699 with the call, how many times the CTI has transferred the call, etc. And, thus Perfit only generates a parameter based on the customer input data, and not on the present invention's CTI server state condition for the call.

Examiner's response:

Para 3 above applies. In the broad sense, any incoming call will reveal information, of varying degrees, about the status of an incoming call. Depending on the call, the server' state condition may be set to fraud.

In reference to Applicant's argument:

More particularly, the Examiner appears to rely on Perfit's use of Call Detail Record (CDR) to reject independent claims 1 and 9 (page 3, item 4 of the Office Action, Perfit, column 5, lines 516). First, clearly Perfit's use of subscriber data to detect fraud is not the same as the present invention's use of "a CTI server state condition of the call." Second, however, Perfit's use of the CDR is also not the same as the present invention's use of "a CTI server state condition of the call," because the CDR only provides details about a message within a telephone network to setup a call connection (i.e., telecommunication activity), which can include input data via the call connection. Perfit's use of the CDR differs from the present invention's "a CTI server state condition of the call," because the present invention's "state condition in the CTI server for the call" relates to a status of the call within the CTI server 50 that is in communication with the telephone network 30, 40 (i.e., how the incoming call has been handled by the CTI system 50). See, FIG. 1 of the present Application. In other words, in the present invention "the state condition in the CTI sever for the call" is generated (determined) at the CTI sever 50 or based upon the CTI server 50 activity, but in Perfit, the CDR is generated by the telephone network. See, Perfit, column 5, lines 4-42, in which the CDR loader 104 generates events based upon CDRs received from the switch 102. Perfit discloses that the switch 102 may be any wired or wireless telecommunications switch, or may be a mediation device for aggregating a number of switches, or may also include a roamer type or roamer

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network connection to receive call information relating to local subscribers from other switches or geographic regions (column 5, lines 16-24). In other words, in Perfit, the telephone network generates CDRs to provide call information about calls on the telephone network, and Perfit does not disclose or suggest (does not contemplate) the present invention's CTI server that operates based upon a state condition in the CTI server for an incoming call.

Examiner's response:

Para 3 above applies. Certainly fraud is a server state condition of the call.

Further, it is the claims and only the claims that establish the metes and bounds of the invention. There is no claim limitation that excludes telephone switching prior to state determination. In fact, to one of ordinary skill in the art, the applicant's call will have gone through at least one switch prior to arriving at the CTI server. Simply, to one of ordinary skill in the art, this is the way a telephone system operates. Indeed, Perfit at c 5, lines 26-27, anticipates "the present invention's CTI server that operates based upon a state condition in the CTI server for an incoming call."

In reference to Applicant's argument:

In other words, Perfit does not disclose the present invention's analyzing a status of an incoming call, and generating a customer psyche parameter based on the incoming call status. In contrast to Perfit, the present invention analyzes a state condition in the CTI system for the incoming call (i.e., call status within the CTI system). In contrast to Perfit, the present invention's state conditions of a call in the CTI system are, for example, data about the call received at the CTI system (FIG. 3A), dealing data regarding how the CTI has dealt with the incoming call (FIG. 3B), and transfer data regarding number of times the incoming call has been transferred within the CTI system (FIG. 3C), and neglect data about the call received at the CTI system indicating previous disconnections or non-responses by the CTI system (FIG. 3D). See, page 7, line 22 to page 9, line 4, of the present Application. Then, in contrast to Perfit, the present invention generates "a parameter based on the state condition in the CTI server for the call."

Examiner's response:

Para 3 above applies. See para 6 above regarding psyche. Fraud is a psychological state. It is the claims and only the claims that establish the metes and bounds of the invention. Indeed Perfit analyses the state condition (events) regarding

each call from the switch and determines the state condition: fraud or no fraud (Perfit at c 2, lines 5-9; Fig. 1)

In reference to Applicant's argument:

New claim 10 provides an alternative recitation of the present invention. Support for independent claims 1 and 9, including new claim 10, can be found, for example, on page 3, lines 3-11; page 5, lines 20-32; page 6, lines 10-21; and page 10, lines 5-18, of the present Application. In contrast to Perfit, the present invention as recited in new claim 10 provides:

analyzing computer server state conditions of the received telephone terminal call to generate at least one customer psyche parameter based on the state conditions in the computer server for the received telephone terminal call, the at least one psyche parameter representing a presumed psychological state of the calling customer.

Examiner's response:

Para 3 above applies. See para 6 above regarding psyche. New claim is very similar to that of claims 1 and 9. Accordingly, all of the above comments apply.

Rejection of the new claim follows that of claim 1.

### ***Claim Rejections - 35 USC § 102***

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

9. The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000.

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Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

10. Claims 1-9 are rejected under 35 U.S.C. 102(e) as being anticipated by Perfit et al (U. S. Patent 6,535,728, referred to as **Perfit**).

***Claims 1, 9, 10***

Perfit anticipates receiving means for receiving a call from a telephone Terminal (**Perfit**, col 5, line 37); and analysis means for analyzing a CTI server state condition of the call from the Telephone terminal to generate a parameter based on the condition in the CTI server for the call, the parameter representing a presumed psychological state of a customer using the telephone terminal (**Perfit**, Fig. 1; col 5, lines 5-16; Examiner's Note (EN): Fraud is psychological state).

***Claim 2***

Perfit anticipates icon creating means for creating an icon to visually display the presumed psychological state of the customer on a basis of the parameter (**Perfit**, Fig. 8; col 15, lines 56-67; col 16, lines 1-13; EN: an icon is a graphic representation such as those of Fig. 8); and icon display control means for displaying the presumed psychological state of the customer by using the icon (**Perfit**, Fig. 8; col 15, lines 56-67; col 16, lines 1-13; EN: an icon is a graphic representation such as those of Fig. 8).

***Claim 3***

Perfit anticipates advice creating means for creating an advice on a basis



of the parameter to indicate properly dealing with the customer (**Perfit**, col 16, lines 8-13); and advice display control means for displaying the advice (**Perfit**, col 16, lines 8-13).

***Claim 4***

Perfit anticipates callback instructing means for analyzing a neglect data to indicate that the telephone terminal is to be called in a case that a number of incoming calls or a number of times that the call has been neglected in the neglect data for the call from the telephone terminal is equal to or more than a predetermined value, the neglect data being obtained when the call from the telephone terminal has been neglected and being information which represents the condition for the call from the telephone terminal (**Perfit**, col 2, lines 5-16; col 11, lines 30-42; EN: neglected data being a call that went unanswered for some period would be part of the overall database and would have an appropriate response to be found on Figure 8).

***Claim 5***

Perfit anticipates wherein the analysis means analyses the condition for the call from the telephone terminal by using at least incoming call data obtained when the call from the telephone terminal has arrived, dealing data on dealing with -he cal-l from the telephone terminal, and transfer data on transfer of the call from the telephone terminal, each of which is;-reformation which represents the condition for the call from the telephone terminal (**Perfit**, col 11, lines 13-42).

***Claim 6***

Perfit anticipates the analysis means generates a first and second parameters, the first parameter being based on information directly related to a psychological state of the customer concerning the call from the telephone terminal, and the second parameter being based on other information not directly related to the psychological state of the customer (**Perfit**, col 11, lines 13-42; EN: Perfit generates multiple parameters, some of which are identified in Fig. 8).

***Claim 7***

Perfit anticipates icon creating means for creating an icon to visually display the presumed psychological state of the customer on a basis of the parameter (**Perfit**, Fig. 8; col 15, lines 56-67; col 16, lines 1-13; EN: an icon is a graphic representation such as those of Fig. 8); and icon display control means for displaying the presumed psychological state of the customer by using the icon (**Perfit**, Fig. 8; col 15, lines 56-67; col 16, lines 1-13), wherein the icon creating means creates a first and second icons on a basis of the first and second parameters respectively (**Perfit**, Fig. 8; col 15, lines 56-67; col 16, lines 1-13), and wherein the icon display control means displays the first and second icons (**Perfit**, Fig. 8; col 15, lines 56-67; col 16, lines 1-13).

***Claim 8***

Perfit anticipates analysis means creates information which represents condition for the call from the telephone terminal concurrently with ringing of the call and while the call is being dealt with (**Perfit**, col 8, lines 35-52).

***Conclusion***

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

12. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

13. Claims 1-10 are rejected.

***Correspondence Information***

14. Any inquiry concerning this information or related to the subject disclosure should be directed to the Examiner, Joseph P. Hirl, whose telephone number is (703) 305-1668. The Examiner can be reached on Monday – Thursday from 6:00 a.m. to 4:30 p.m.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Anil Khatri can be reached at (703) 305-0282.

Any response to this office action should be mailed to:

Commissioner of Patents and Trademarks,  
Washington, D. C. 20231;

or faxed to:


(703) 746-7239 (for formal communications intended for entry);

or faxed to:

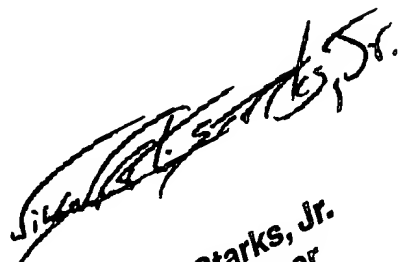
(703) 746-7290 (for informal or draft communications with notation of "Proposed" or "Draft" for the desk of the Examiner).

Hand-delivered responses should be brought to:

Receptionist, Crystal Park II  
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Arlington, Virginia.

  
Joseph P. Hirl

March 3, 2004

  
Wilbert L. Starks, Jr.  
Primary Examiner  
Art Unit - 2121